

Message Text

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21

ORIGIN STR-04

INFO OCT-01 AF-06 ARA-06 EA-07 EUR-12 NEA-10 IO-10 ISO-00

FEA-01 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00 EB-07

FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05

PA-01 AID-05 CIEP-01 SS-15 TAR-01 TRSE-00 USIA-06

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APPROVED BY STR/WBKELLY,JR

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FM SECSTATE WASHDC

TO USDEL MTN GENEVA

INFO USMISSION EC BRUSSELS

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PASS CODEL

E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: CCC COMMENTS ON CUSTOMS MATTERS AND MTN
NEGOTIATIONS

REF: MTN GENEVA 8290

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1. WE BELIEVE IT IMPORTANT THAT MTN DELEGATION REGISTER

ITS OBJECTION TO CUSTOMS CO-OPERATION COUNCIL (CCC) LETTER TO GATT SECRETARIAT CHARACTERIZING CUSTOMS NOMENCLATURES, OTHER THAN BRUSSELS TARIFF NOMENCLATURE (BTN), AS NONTARIFF TRADE BARRIERS. ALSO, WE ARE CONCERNED THAT CCC LETTER CONTAINS UNSOLICITED ADVICE ON HOW MTN NEGOTIATIONS ON CUSTOMS MATTERS SHOULD BE CONCLUDED AND ON FUTURE ACTIONS THAT SHOULD BE TAKEN BY THE GATT. WE NOTE (REFTEL) THAT CANADA (RODNEY GREY) HAS ALREADY MADE A RESPONSE TO CCC LETTER. WE SUGGEST THAT AMBASSADOR WALKER ALSO SEND LETTER TO CCC SECRETARIAT, WITH A COPY TO THE GATT SECRETARIAT, ALONG THE FOLLOWING LINES.

2. QUOTE: DEAR MR. KILPATRICK: THIS IS IN REFERENCE TO YOUR LETTER OF AUGUST 8, 1975 TO MR. KAUTZOR-SCHRODER OF THE GATT SECRETARIAT (ANNEX TO CCC DOCUMENT 21.762E) CONTAINING COMMENTS OF THE COUNCIL SECRETARIAT ON

QUESTIONS BEING CONSIDERED IN THE MULTILATERAL TRADE NEGOTIATIONS (MTN) BY THE NONTARIFF MEASURES SUBGROUP ON CUSTOMS MATTERS. THE SUBSTANCE OF YOUR LETTER HAS BEEN REPRODUCED IN THE DOCUMENTATION OF THIS CUSTOMS SUBGROUP (MTN/NTM/W/17).

3. QUOTE: I MUST EXPRESS THE OBJECTION OF MY GOVERNMENT TO THE COUNCIL SECRETARIAT'S COMMENTS. SPECIFICALLY, THE UNITED STATES DISAGREES WITH YOUR STATEMENT THAT "THE EXCEPTIONAL CUSTOMS TARIFF WHICH IS NOT BASED ON THE CCC NOMENCLATURE IS OBVIOUSLY AN OBSTACLE TO TRADE." FURTHERMORE, MY GOVERNMENT QUESTIONS THE PROPRIETY OF AN INTERNATIONAL ORGANIZATION PUBLICLY STATING AND CIRCULATING ITS OPINION THAT ANY COUNTRY'S CUSTOMS PRACTICES CONSTITUTE NONTARIFF BARRIERS.

4. QUOTE: WE FIND YOUR COMMENTS ARE ALL THE MORE PERPLEXING IN VIEW OF THE FACT THAT A REPRESENTATIVE OF THE CUSTOMS CO-OPERATION COUNCIL WAS PRESENT AT THE MAY MEETING OF THE SUBGROUP ON CUSTOMS MATTERS. AT THAT MEETING THE U.S. REPRESENTATIVE CLEARLY STATED MY GOVERNMENT'S POSITION THAT THE MAINTENANCE OF A NOMENCLATURE SYSTEM OTHER THAN THE BTN DOES NOT CONSTITUTE A LIMITED OFFICIAL USE

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NONTARIFF BARRIER. IN THE LIGHT OF THIS STATEMENT THE COUNCIL SECRETARIAT'S COMMENTS AT BEST REFLECT A LACK OF SENSITIVITY AND OBJECTIVITY IN ADDRESSING THIS IMPORTANT MATTER.

5. QUOTE: I MUST ALSO REGISTER MY GOVERNMENT'S OBJECTION TO YOUR COMMENT THAT "A RECOMMENDATION SHOULD BE ISSUED AT THE CONCLUSION OF THE PRESENT GATT NEGOTIATIONS TO THE

EFFECT THAT COUNTRIES WHICH DO NOT YET HAVE A TARIFF BASED ON THE CCC NOMENCLATURE SHOULD TAKE STEPS TO ADOPT ONE, THAT THOSE WHICH HAVE BASED THEIR TARIFFS ON ONLY AN ABRIDGED VERSION OF THE NOMENCLATURE SHOULD NOW ADOPT THE COMPLETE VERSION, AND THAT LASTLY THOSE WHICH WISH TO DO SO SHOULD ACCEDE TO THE NOMENCLATURE CONVENTION OF 15 DECEMBER 1950." THIS GOES WELL BEYOND WHAT MY GOVERNMENT CONSIDERS APPROPRIATE AND DOES NOT, IN OUR VIEW, AID US IN OUR WORK IN THE MTN.

6. QUOTE: IN CONNECTION WITH YOUR COMMENTS ON THE ADEQUACY OF THE BTN, I WOULD LIKE TO REFER YOU TO A LETTER OF THE SECRETARY GENERAL OF THE CUSTOMS CO-OPERATION COUNCIL, DATED APRIL 8, 1974 (L/74.745). THE ANNEX TO THIS LETTER, ADDRESSED TO THE U.S. COMMISSIONER OF CUSTOMS, STATES THAT THE BTN "IS CLEARLY CONDEMNED TO DISAPPEAR IN THE NEAR FUTURE IF A DETERMINED EFFORT IS NOT MADE TO REVISE IT. IT SHOULD BE BORNE IN MIND THAT THE BTN IS

VERY LARGELY BASED ON THE GENEVA NOMENCLATURE WHICH WAS ESTABLISHED IN 1931 AND 1937; TECHNOLOGICAL AND COMMERCIAL DEVELOPMENTS SINCE THAT TIME -- AND PARTICULARLY IN THE LAST FIFTEEN YEARS -- HAVE BEEN CONSIDERABLE. IN MANY RESPECTS, THE PRESENT BTN IS THEREFORE OBSOLESCENT." FRANKLY, MY GOVERNMENT DOES NOT UNDERSTAND YOUR UNQUALIFIED ADVOCACY OF UNIVERSAL ADOPTION OF A NOMENCLATURE SYSTEM WITH THE INADEQUACIES DESCRIBED BY THE SECRETARY GENERAL OF THE CUSTOMS CO-OPERATION COUNCIL.

7. QUOTE: WITH RESPECT TO CUSTOMS VALUATION, THE COUNCIL SECRETARIAT'S LETTER CREATES THE IMPRESSION THAT THE RECOMMENDATION -- NOT YET RATIFIED -- TO PERMIT THE BRUSSELS DEFINITION OF VALUE TO BE APPLIED ON A F.O.B. LIMITED OFFICIAL USE

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BASIS IS THE ONLY SIGNIFICANT OBSTACLE TO ITS ADOPTION. THE UNITED STATES HAS PREVIOUSLY INDICATED THAT THERE ARE A NUMBER OF PROBLEMS WITH THE BRUSSELS DEFINITION. NOT THE LEAST OF THESE IS THE ISSUE OF THE RIGHT OF APPEAL IN DISPUTES BETWEEN TRADERS AND CUSTOMS AUTHORITIES. THE DRAFT PLAN OF ANNEXES TO THE KYOTO CONVENTION IS AN UNACCEPTABLE SOLUTION TO THESE PROBLEMS, AS FAR AS THE UNITED STATES IS CONCERNED, AND THIS HAS BEEN MADE CLEAR IN BOTH CCC AND MTN MEETINGS AT WHICH THE COUNCIL SECRETARIAT HAS BEEN REPRESENTED.

8. QUOTE: IN LIGHT OF THE ABOVE, I MUST REQUEST THAT THE CUSTOMS CO-OPERATION COUNCIL WITHDRAW ITS AUGUST 8, 1975 LETTER TO THE GATT SECRETARIAT OR, ALTERNATIVELY, DELETE THOSE PORTIONS OF THE LETTER THAT DEAL WITH OPINION AND

NOT WITH FACT. END QUOTE. KISSINGER

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Draft Date: 20 NOV 1975
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